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ISN/RA FOR DANIEL; NEA/I FOR NOTAR, KENNA; L FOR MITCHELL,
HIRSCH; BAGHDAD FOR FINGARSON, AHN, SWINEY

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TAGS: [AORC](#) [IAEA](#) [IZ](#) [KNNP](#)
SUBJECT: IRAQ-WMD-RESTRICTIONS: DISCUSSING HOW VIENNA COULD
ASSIST U.S. EFFORTS TO ENCOURAGE UN SECURITY COUNCIL TO
LIFT RESTRICTIONS

REF: 08 SECSTATE 95569

1. (SBU) Summary: Ambassador Schulte met with Embassy Baghdad and Washington ISN/RA, NEA/I, and L/NPV on April 1 over Secure VTC to discuss WMD-related UN Chapter VII Resolutions on Iraq. Ambassador Schulte noted that the U.S. Mission to International Organizations in Vienna is willing to assist in the process of lifting WMD restrictions on Iraq, given our expertise and contacts in nuclear safeguards, safety, security and export controls. Pol-Mil Minister Counselor in Baghdad welcomed the offer and noted the importance of the issue to the United States, as well as Iraq. All agreed to coordinate future efforts pursuant to Washington guidance. End Summary.

UNVIE Offers Assistance

2. (SBU) Ambassador Schulte began the meeting by offering Washington and Baghdad support from Vienna in helping to lift WMD Chapter VII restrictions on Iraq. (Note: This is a part of a broader ongoing effort in Washington and Embassy Baghdad to implement the provisions of the U.S.-Government of Iraq (GOI) Security Agreement addressing the application of Chapter VII restrictions pertaining to Iraq). In light of Mission contacts with organizations associated with various non-proliferation regimes and at the Iraqi Embassy, Mission is seeking how best it can assist the effort to move forward with urging the UN Security Council to lift restrictions with respect to Iraq. Embassy Baghdad Minister Counselor Michael Corbin noted that lifting WMD restrictions is a priority for Mission Iraq, per guidance from Washington. MinCouns Corbin added that Iraq was highly motivated in this area and the end goal would be positive for Iraq.

3. (SBU) Baghdad EmbOff Tim Fingarson provided an overview of Iraq's engagement towards lifting WMD-related restrictions. The Iraqi National Monitoring Directorate (INMD) is the Embassy's primary interlocutor on these issues. INMD is under the Ministry of Science and Technology, although it will soon become independent. According to Fingarson, Iraq faces internal difficulties in interagency and inter-ministerial coordination, which slow our efforts to assist them. The INMD is working to overcome these difficulties, and has so far successfully managed to accede to the CW convention, with assistance from Embassy Baghdad, the Department, and the Department of Defense.

4. (SBU) According to EmbOff Fingarson, the INMD has drafted a comprehensive non-proliferation law which it hopes the Iraqi Council of Representatives will pass this year, although Iraq has already committed to the principles of

non-proliferation in the constitution adopted in 2005.

International Non-Proliferation Norms

¶5. (SBU) EmbOff Fingarson reviewed a number of agreements and conventions, outlined in reftel that would establish international confidence in Iraq's civil nuclear plans. All of the agreements and conventions discussed below are relevant to UNVIE's work.

Nuclear Safeguards

¶6. (SBU) Iraq has a Comprehensive Safeguards Agreement (CSA) (INFCIRC/172, 22 February 1973) and signed the Additional Protocol (AP) to its CSA on October 9, 2008. The AP is not yet in force. The IAEA awaits written confirmation from Iraq that its domestic requirements for entry into force have been met, and therefore the action rests with Iraq.

¶7. (SBU) Ted Hirsch from the Office of the Legal Adviser (L/NPV) advised that UNSCR 707 requires that Iraq halt all nuclear activities of any kind, except for use of isotopes for medical, agricultural or industrial purposes, including civil activities, and that this restriction will remain in place until: (1) the IAEA determines that Iraq is in full compliance with its safeguards agreement, and (2) the Security Council determines that Iraq is in full compliance with paragraphs 12 and 13 of UNSCR 687. (Comment: Paragraphs 12 and 13 of UNSCR 687 require Iraq unconditionally to agree

not to acquire or develop nuclear weapons or weapon-grade material, or any subsystems, components, or any research and development, support or manufacturing facilities for producing weapons or weapon-grade material, and to permit the destruction, removal or rendering harmless of these items. In addition, Iraq must permit immediate on-site inspections to verify its compliance with the above).

¶8. (SBU) (Comment: On April 3, Herman Nackaerts, Director of IAEA Safeguards Operations B, told Msnoff that Iraq is already considered to be in compliance with its safeguards agreement and that the IAEA's legal department could formally inform the United States of this if it received a letter requesting Iraq's status. Nackaerts added that Iraq no longer has nuclear material that triggers annual Physical Inventory Verification (PIV) with the removal of the 550 tons of yellowcake in 2008. The last PIV took place in November 2007, prior to the removal of the yellowcake. Safeguards Operations B is in charge of nuclear safeguards in Iraq and the entire Middle East within the Safeguards Department. End Comment.)

Export Controls

¶9. (SBU) With respect to export controls, reftel recommends that Iraq should develop and implement export controls and practices in line with internationally recognized regimes such as the Missile Technology Control Regime, Australia Group, Nuclear Suppliers Group, and Wassenaar Arrangement (WA), per reftel. UNVIE cannot speak to what steps Iraq may have taken to establish export/import authorities but notes that Iraq does not participate in Nuclear Suppliers Group or adhere to its guidelines and is not a participating state in the Wassenaar Arrangement. EmbOff Fingarson noted that the INMD is the import/export authority for Iraq and that the Wassenaar Arrangement is covered under CPA orders and other domestic legislation.

Nuclear Safety

¶10. (SBU) With respect to nuclear safety, reftel recommends that Iraq accede to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, adhere to the Code of Conduct for Safety and Security for Radioactive Sources, and ratify the Convention on Supplementary Compensation for Nuclear Damage (CSC). UNVIE noted that Iraq does not currently adhere to or comply with the above safety conventions. To do so, Iraq would need to deposit with the IAEA its instrument of accession to the Joint Convention and its instrument of ratification of the CSC, and send a letter to the IAEA Director General indicating its intent to adhere to the Code of Conduct. Embassy Baghdad ESTH Officer Roy Therrien highlighted the Department of State project to clean-up the Tuwaitha site, and asked whether the IAEA could be more involved. (Comment: UNVIE's NRC representative notes that the IAEA is a participant in this project and if there is interest from Washington in increasing IAEA participation that UNVIE would be happy to facilitate. End comment.)

¶11. (SBU) EmbOff Fingarson noted that the IAEA and the U.S. have provided considerable assistance to Iraq to establish a regulatory authority for sealed sources known as IRSRA, the Iraq Radioactive Source Regulatory Authority. Mission expects that the IAEA, along with the U.S., will continue to be involved to ensure the success of IRSRA, such as through training, assisting in identifying qualified people, and funding of IAEA assistance projects.

Other Non-Proliferation Regimes

¶12. (SBU) Other recommendations from reftel include Iraq subscribing to the International Code of Conduct Against Ballistic Missile Proliferation (Hague Code of Conduct), becoming a partner in the Global Initiative to Combat Nuclear Terrorism, and committing to rely on existing international markets for nuclear fuel services if Iraq chooses to pursue civilian nuclear power. The Hague Code of Conduct and the Global Initiative were not discussed during the VTC, although Mission notes that Iraq is not a participating state in

either arrangement. Mission understands from Embassy Baghdad that Iraq's participation in the Hague Code of Conduct is in process.

¶13. (SBU) Iraq's commitment to rely on existing international markets for nuclear fuel services was discussed during the SVTC. Embassy Baghdad clarified that, despite expressions of interest reported in the press, Iraq has no concrete plans to build nuclear power plants.

¶14. (SBU) Ambassador Schulte asked whether a 123-type agreement would be useful in the process of lifting the UNSC Chapter VII restrictions. ISN clarified that a 123-Agreement with Iraq is not a requirement for lifting UNSC Chapter VII restrictions, but would be needed before any significant nuclear cooperation with Iraq.

Education Needed

¶15. (SBU) Embassy Baghdad and Washington participants both stressed the importance of educating relevant Iraqi officials on the restrictions in place and the actions Iraq needs to take to remove them. EmbOff Fingarson illustrated the point that Iraq may require some education on the UN restrictions, noting that the INMD believes that UNSCR 707 prohibits IAEA Technical Cooperation (TC) for Iraq. (Comment: UNVIE subsequently confirmed that Iraq is not excluded from TC. In fact, Iraq participates in regional and inter-regional TC projects and has national projects on the books, but the security situation makes the national projects difficult to

implement. End Comment.) Ambassador Schulte indicated that the Mission is willing to facilitate video teleconferences between Iraqi officials and various organizations in Vienna, such as the IAEA, to increase the Iraqi Government's knowledge of the various nonproliferation regimes, if this is useful in our efforts.

¶16. (SBU) MAJ Won Kim, MNF-I, noted that the Wassenaar Arrangement (WA) has information on International Best Practices on export controls. UNVIE had previously confirmed with the WA Secretariat that no Iraqi representative has contacted the WA Secretariat directly. The WA Head of Secretariat strongly prefers interested countries to send queries directly to the Secretariat rather than via third countries. Therefore, UNVIE recommends that Embassy Baghdad urge the Iraqi government to instruct its Ambassador in Vienna to contact the WA Secretariat to request, for example, information on best practices. Commencing a direct dialogue early on with the WA Secretariat would have the additional advantage of creating a "track record" for Iraq and thus provide other Participating States with a better understanding of Iraq's interest in the Arrangement. Mission suggests the education include information on what Iraq would gain by joining supplier arrangements, i.e, WA, NSG, MTCR, Australia Group, to which it does not currently belong.

¶17. (SBU) MAJ Kim also noted during the VTC that the INMD, on April 29, will host ministry officials and key decision-makers to review Iraq's responsibilities under international nonproliferation treaties and conventions. Mission will work with Embassy Baghdad to determine if we can provide support in the form of background information for the upcoming meeting.

Next Steps

¶18. (SBU) State Iraq desk (Susan Notar, NEA/I/PM) and nonproliferation bureau (Jody Daniel, ISN/RA) indicated that, consistent with the U.S. commitment to the GOI in the Security Agreement to help Iraq regain the legal and international standing that it held before the adoption of UNSCR 661 (1990), an interagency review is ongoing to develop a plan to work with the UN Security Council to help Iraq in ending the application of Chapter VII restrictions, including WMD restrictions. Notar indicated that it was her understanding that pursuant to UNSCR 1859, the UN is consulting with Iraq and gathering information to prepare a report on the issue, but that a draft was forthcoming.

¶19. (SBU) Ambassador Schulte welcomed further direction from Washington on how UNVIE might assist in USG effort to lift the UNSC Chapter VII restrictions related to WMD. Mission

will contact NSG to determine if Iraq has been in contact. On the Joint Convention on the Safety of Spent Fuel Management, Mission will help determine what advice could be provided to Iraq in the area of safety, in conjunction with Washington. Mission will also work with Embassy Baghdad to provide background materials for the April 29 meeting mentioned in para 16 above.

SCHULTE